



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking to Consider Smart Grid Technologies Pursuant to Federal Legislation and on the Commission's own Motion to Actively Guide Policy in California's Development of a Smart Grid System.

R.08-12-009

**PREHEARING CONFERENCE STATEMENT OF AT&T CALIFORNIA (U 1001 C),
AT&T COMMUNICATIONS OF CALIFORNIA, INC. (U 5002 C), AND
NEW CINGULAR WIRELESS PCS, LLC (U 3060 C)**

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ATT¹ hereby submits this prehearing conference statement pursuant to the Assigned Commissioner's and Administrative Law Judge's Joint Ruling, dated July 30, 2010 ("Ruling"). AT&T's wireless entity is a member of CTIA, which is also filing a prehearing conference statement, and joins in that statement. This prehearing conference statement contains additional information on the questions presented in the Ruling.

I. The Fair Information Principles Provide A Good Starting Point For Crafting The Privacy and Cyber Security Protections.

The Ruling (at 6) requests that statements address the "regulatory policies that the Commission should adopt to protect the privacy of California power customers and to protect the security of the grid." The Fair Information Principles ("FIPs") framework provides a good starting point for crafting those protections. The FIPs comprise the following principles:

- Transparency – Data management practices should be transparent and should provide meaningful, clear, full notice to the customer regarding the collection, use, dissemination, and maintenance of customer information.
- Individual Participation – Regulable entities should involve the individual in the process when they use customer information and, to the extent practicable, seek ratepayer consent for the collection, use, dissemination, and maintenance of customer information.
- Purpose Specification – Regulable entities should specifically articulate the purpose or purposes for which consumer information will be used.
- Data Minimization – Only data directly relevant and necessary to accomplish a specified purpose should be collected, and data should only be retained for as long as necessary to fulfill the specified purpose.
- Use Limitation – Customer information should be used solely for the purposes specified in the notice. Sharing of such information should be only for a purpose compatible with the purpose for which it was collected.
- Data Quality and Integrity – Regulable entities should, to the extent practicable, ensure that data is accurate, relevant, timely and complete. Regulable entities should provide consumers with tools to correct mistakes or challenge information provided in profiles.

¹ AT&T California (U 1001 C), AT&T Communications of California, Inc. (U 5002 C), and New Cingular Wireless PCS, LLC (U 3060 C).

- Data Security – Regulable entities must protect customer information through appropriate security safeguards against risks of loss, unauthorized access or use, destruction, modification, or unintended or inappropriate disclosure, and Smart Grid technologies and services must be capable of implementing these security safeguards.
- Accountability and Auditing – Regulable entities should be accountable for complying with these principles, should provide appropriate training to all employees and contractors who use customer information and should audit the actual use of that information to demonstrate compliance with the principles and all applicable privacy protection requirements.²

The FIPs framework is a strong foundation for the development of privacy and cyber security policies. The privacy and cyber security protections should be applied to all entities with access to the Smart Grid or data. We agree that consumers are entitled to receive clear disclosures of what information is being collected, how it will be used, and how and under what circumstances third parties may be provided access to it. In addition, AT&T supports easy-to-use mechanisms to implement consumer consent and choices regarding information access and the ability to easily change preferences. Privacy and cyber security issues should be carefully considered and mechanisms built in from the beginning; privacy should be embedded “by design,” rather than being bolted on at the end.³

The cyber security threats that the Smart Grid presents are not substantially different from the cyber security challenges that commercial communications providers already address on a daily basis. The use of robust, established, sophisticated communications networks, instead of multiple duplicative networks owned and operated by electric utilities, will increase security and the consistency with which cyber-threats are detected and defeated. Thus, the Commission

² See Comments of CDT/EFF at 15.22, dated March 9, 2010.

³ See also Comments of Verizon at 8, dated March 9, 2010 (it is important that security be designed into the initial smart grid plan); Comments of Cisco at 16, dated March 9, 2010 (with the advent of Smart Grid, the CPUC and [energy companies] have the opportunity to work together to ‘bake-in’ security from the outset, as new technologies are brought online); Comments of PCLPR at 1-2, dated March 9, 2010 (it is crucial that privacy and cyber security are incorporated into the Smart Grid from the beginning).

should not treat cyber security as a completely new problem, nor should it give incentives to project sponsors to create entirely new communications systems that may not be up to the task of addressing today's ever-shifting landscape of cyber security vulnerabilities. Rather, in establishing cyber security standards, the Commission should allow and encourage the electricity providers to use existing providers and networks that have a demonstrated record of cyber security capability and excellence and that have existing systems with robust cyber security capabilities.

AT&T also believes that the Commission would benefit from participating in and awaiting the outcomes of the ongoing National Institute of Standards and Technology ("NIST") efforts dealing with privacy and cyber security so as to consider a variety of approaches in fashioning a privacy and cyber security policy that fully protects consumers. In addition, the Commission should consider the suggestions relating to the Commission's draft privacy rules that TURN, and Center for Democracy & Technology/Electronic Frontier Foundation ("CDT/EFF") made in their opening comments in this proceeding -- CDT/EFF in their joint March 9, 2010, Comments at 41-45 and TURN in its March 9, 2010 Opening Comments at Attachments A & B. These commenters both provided useful suggestions about ensuring the privacy of consumer data after it has been released to authorized third parties.

II. The Commission Should Adopt Regulatory Policies That Require Data Access Be Provided at the Customer Energy Management Interface and Simultaneously Made Available To Third Parties with Equal Timeliness and Quality.

The Ruling (at 6) requests that statements address the "regulatory policies that the Commission should adopt to permit authorized parties with access to this data, and the conditions they must meet for continued access." The Commission should require all third parties to protect privacy and security of the grid in order for the third parties to access the data.

Wherever possible, policy makers should opt for secure and open standards and allow consumers to direct their data flows to applications and service providers of their choice. To that end, the Commission should ensure the smart meter is not the sole gateway for energy management data and home energy control. An architecture that requires data to flow from individual appliances to a utility through a smart meter could needlessly slow other, authorized parties' access to consumer usage information and consequently limit or slow the development of innovative applications. Minimizing the set of data that must flow through a specified alternative gateway like the smart meter (such as the data tied to the business relationship between the consumer and the utility as provider of electricity) will encourage innovation in this field of Home Area Networks ("HANs").

Additionally, in order to permit such access the Commission should adopt policies that require real-time access be available to third parties at AMI-equipped locations; at those locations without AMI equipment, data should be available on a near real-time basis. Energy companies should make the data simultaneously available to third parties with timeliness and quality equivalent to that which the utility provides itself. Thus, a California energy company should not be permitted to utilize real time AMI data for its own purposes until it demonstrates that third parties (subject to appropriate consumer authorization) have equivalent access, utilizing nationally recognized standards and data models. The same should be true for non-real time data: California energy companies should not be permitted to introduce dashboards, analytical tools, etc., until they can demonstrate that third parties have equivalent access to backhaul data on a non-discriminatory basis.

Additionally, the data that energy companies provide should follow a standardized format that is published early enough so that third parties will have a realistic opportunity to develop energy management products competing with utility offers.⁴

This is not to say, however, that the electric utility should be obligated to make special accommodations on data for third parties that extend beyond the requirements of its own operation. For example, if third parties are provided real time access to granular data directly at the Smart Meter, then, absent some voluntary commercial agreement, the energy companies need not also supply granular data to third parties that is backhauled for access at a centralized point.⁵ Nevertheless, the utility should be permitted to enter into commercial agreements for supply of such supplementary access.

Finally, the Commission should prescribe a clear point of demarcation at which the energy company's ownership of infrastructure ends and a homeowner's begins.⁶ Just as occurred with consumer premises equipment in the world of telecommunications, establishing such a demarcation point will promote investment and innovation in the sphere of home energy management. For most purposes, this demarcation should be the smart meter. Thus, an energy company would be responsible for investment on the consumer side of the meter only if a homeowner had chosen the utility as its energy management provider. Similarly, such a choice would be necessary for the energy company to be able to access, control, or receive data streams from, individual devices in the home. AT&T recognizes that some flexibility may be appropriate in defining this demarcation point – as, for example, in the case of multi-tenant dwellings – but we believe that placing the demarcation point at the smart meter will serve customers best in the

⁴ See, e.g. Comments of Verizon at 10, dated March 9, 2010.

⁵ See Comments of PG&E at 15, dated March 9, 2010.

⁶ See Comments of SCE at 22 (“A clear separation of roles and responsibilities may spur innovation and the development of customer-owned energy equipment.”), dated March 9, 2010.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing PREHEARING CONFERENCE STATEMENT OF AT&T CALIFORNIA (U 1001 C), AT&T COMMUNICATIONS OF CALIFORNIA, INC. (U 5002 C), AND NEW CINGULAR WIRELESS PCS, LLC (U 3060 C), in R.08-12-009 by electronic mail, U.S. Mail, and/or hand-delivery to the persons on the attached official Service List for this proceeding.

Dated this 13th day of August 2010 at San Francisco, California.

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